**Court No. 2**

**In the High Court of Uttaranchal at Nainital.**

**First Appeal From Order No. 1039 of 2001.**
**(Old No. 1091 of 1997)**

Raghubir Singh Dutt
S/o Shri Kishan Singh Dutt,
R/o Block No.17, Quarter No.926,
Lodhi Colony, New Delhi..

..... Claimant/Appellant.

**Versus**

(1) Managing Director, U.P.State Road Transport, Corporation, Tedi Bangalia, Lucknow.
(2) United India Insurance Company Ltd., through its Divisional Office, Nainital Road, Haldwani, District-Nainital.

.....Opp.parties/Respondents.

**Sri,K.N.Joshi learned counsel for the appellant.**
**Sri A.n.Sharma, learned counsel for the respondent No.1.**

**.....**

**Dated: 20th Aug.,2004.**

**Hon'ble P.C. Verma, J.**
**Hon'ble B.S. Verma, J.**

This appeal has been preferred by the appellant against the judgment and award dated 03.10.1997 passed by Motor Accident Claims Tribunal/III Additional District Judge, Nainital in Motor Accident Claim Case No.184 of 1988.

Brief facts giving rise to the present appeal are that on 16.11.1987 at 2.15 p.m. when deceased Jitendra Pal Singh was coming from Rudrapur to Baajpur near crossing Rampa Leela Farm on Gadarpur-Kashipur Road, Bus No.UGO 9236 belonging to U.P.S.R.T.C. which was being driven rashly and negligently by its driver came and

hit the car, due to the injuries received in this accident the deceased Jitendra Pal Singh died on the spot. The deceased was employed as General Manager in Gurunanak Rice Mills, Baajpur and was getting Rs. 4800/- per month as salary. He was 26 years of age at the time of accident. The claimant had filed claim petition for compensation of Rs. 30,00,000/- due to the death of deceased.

The opposite parties contested the case before the Tribunal. On the pleadings of the parties, following issues were framed by the Tribunal:-

(1) Whether the accident took place due to the rash and negligent driving of the driver of the bus bearing registration No. UGO 9236?

(2) Whether the accident took place due to rash and negligent driving of the car by the deceased as alleged in para 24 of the written statement of opposite party?

(3) To what amount of compensation, if any, the claimant is entitled?

(4) Whether the deceased was not having any driving licence ? If so, its effect?

(5) Whether the insurer of car is a necessary party?

The learned Tribunal while deciding issue Nos. 1 & 2 held that the accident was occurred due to contributory negligence of the drivers of the Car and offending Bus. It was also held that the deceased was having valid driving licence at the time of accident. The learned Tribunal in its order exonerated the Opp.party No.2-United India Insurance Company from the liability an awarded the claim petition for Rs. 90,000/- as compensation alongwith interest at the rate of 12% per

annum from the date of order till the date of payment against Opp.party No.1-U.P.S.R.T.C.

We have perused the record of the appeal and gone through the finding recorded by the learned Tribunal. We find no illegality or infirmity in the order of learned Tribunal. The Tribunal has rightly calculated the amount of compensation on the basis of evidence led by the claimant.

In view of the findings recorded by the learned Tribunal we are of the opinion that no case is made out for enhancement of the amount of compensation. The appeal has not merit and deserves dismissal.

Learned counsel for the appellant submitted that the interest on the amount of compensation has been ordered from the date of order which is not in accordance with law. Keeping in view the facts and circumstances of the case, we are of the opinion that the interest should be given from the date of application and not from the date of order.

The appeal is disposed of accordingly. The appellant is entitled to get interest on the amount of compensation awarded by the learned Tribunal from the date of filing of application till the date of payment.

**( B.S.Verma, J.)** **( P.C.Verma, J.)**

P.Singh